

AMENDED IN SENATE JULY 3, 2007
AMENDED IN SENATE MAY 29, 2007
AMENDED IN ASSEMBLY APRIL 16, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1098

Introduced by Assembly Member Saldana

February 23, 2007

An act to amend Sections 25514.5 and 25540 of, *and to add Section 25540.1 to*, the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 1098, as amended, Saldana. Hazardous materials: administrative: penalties: liability.

(1) Existing law requires that, in order to protect the public health and safety and the environment, a business, as defined, establish and implement a business plan, meeting specified requirements, relating to the handling and release or threatened release of hazardous materials. A business that violates or knowingly violates any provision with regard to the business plan is liable to an administering agency for a prescribed administrative penalty.

This bill would remove the requirement that the amount of the administrative penalty be set by the governing board of the administrative agency.

(2) Existing law requires the implementation of the federal accident release prevention program, established pursuant to the federal Clean Air Act, with regard to the handling and storage of chemical and hazardous substances, along with certain amendments specific to the state. If there is a violation of the provisions of the program, specified

administrative civil liability shall be imposed. If there is a knowing violation of the provisions of the program, after reasonable notice, specified administrative civil liability shall be imposed, and upon conviction the person may be punished by imprisonment in the a county jail for not more than one year. An administering agency is required to utilize specified enforcement procedures when an administering agency issues an enforcement order or assesses an administrative penalty, or both, for a violation of those requirements.

~~This bill would make clarifying changes with regard to the administering agency's enforcement of those provisions~~ *instead provide that the person or stationary source that violates those provisions is civilly liable to the administering agency. The bill would specify that a person or stationary source that knowingly violates those provisions after reasonable notice of the violation is guilty of a misdemeanor.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25514.5 of the Health and Safety Code
- 2 is amended to read:
- 3 25514.5. (a) Notwithstanding Section 25514, any business
- 4 that violates this article is liable to an administering agency for an
- 5 administrative penalty not greater than two thousand dollars
- 6 (\$2,000) for each day in which the violation occurs. If the violation
- 7 results in, or significantly contributes to, an emergency, including
- 8 a fire or health or medical problem requiring toxicological, health,
- 9 or medical consultation, the business shall also be assessed the full
- 10 cost of the county, city, fire district, local EMS agency designated
- 11 pursuant to Section 1797.200, or poison control center as defined
- 12 by Section 1797.97, emergency response, as well as the cost of
- 13 cleaning up and disposing of the hazardous materials, or acutely
- 14 hazardous materials.
- 15 (b) Notwithstanding Section 25514, any business that knowingly
- 16 violates this article after reasonable notice of the violation is liable
- 17 for an administrative penalty, not greater than five thousand dollars
- 18 (\$5,000) for each day in which the violation occurs.
- 19 (c) When an administering agency issues an enforcement order
- 20 or assesses an administrative penalty, or both, for a violation of
- 21 this article, the administering agency shall utilize the administrative

1 enforcement procedures, including the hearing procedures,
2 specified in Sections 25404.1.1 and 25404.1.2.

3 SEC. 2. Section 25540 of the Health and Safety Code is
4 amended to read:

5 25540. (a) ~~(1)~~—Any person or stationary source that violates
6 ~~this article shall be liable for administrative penalties in an amount~~
7 *this article shall be civilly liable to the administering agency in*
8 *an amount* of not more than two thousand dollars (\$2,000) for each
9 day in which the violation occurs. If the violation results in, or
10 significantly contributes to, an emergency, including a fire, the
11 person or stationary source shall also be assessed the full cost of
12 the county or city emergency response, as well as the cost of
13 cleaning up and disposing of the hazardous materials.

14 ~~(2)~~

15 (b) Any person or stationary source that knowingly violates this
16 article after reasonable notice of the violation shall be ~~liable for~~
17 ~~administrative penalties in an amount not to exceed twenty-five~~
18 *civilly liable to the administering agency in a amount not to exceed*
19 *twenty-five* thousand dollars (\$25,000) for each day in which the
20 violation occurs. If the violation results in, or significantly
21 contributes to, an emergency, including a fire, the person or
22 stationary source shall also be assessed the full cost of the county
23 or city emergency response, as well as the cost of cleaning up and
24 disposing of any hazardous materials.

25 ~~(3)~~

26 (c) When an administering agency issues an enforcement order
27 or assesses an administrative penalty, or both, for a violation of
28 this article, the administering agency shall utilize the administrative
29 enforcement procedures, including the hearing procedures,
30 specified in Sections 25404.1.1 and 25404.1.2.

31 ~~(b) Any person or stationary source that knowingly violates this~~
32 ~~article after reasonable notice of the violation may upon conviction~~
33 ~~be punished by imprisonment in the county jail not to exceed one~~
34 ~~year. If the violation results in, or significantly contributes to an~~
35 ~~emergency, including a fire, the person or stationary source shall~~
36 ~~also be assessed the full cost of the county or city emergency~~
37 ~~response, as well as the cost of cleaning up and disposing of any~~
38 ~~hazardous materials.~~

39 SEC. 3. Section 25540.1 is added to the Health and Safety
40 Code, to read:

1 25540.1. A person or stationary source that knowingly violates
2 this article after reasonable notice of the violation is guilty of a
3 misdemeanor and may, upon conviction, be punished by
4 imprisonment in a county jail not to exceed one year. If the
5 violation results in, or significantly contributes to, an emergency,
6 including a fire, the person or stationary source shall also be
7 assessed the full cost of the county or city emergency response, as
8 well as the cost of cleaning up and disposing of any hazardous
9 materials.

O